

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GREGORY NELSON,

Plaintiff,

v.

CE Power of Cincinnati, OH

and

AMERICAN ELECTRIC POWER,

Defendants.

Case No. _____

Honorable _____

Magistrate Judge _____

Cass Co. Case No.: 21-000020-CD

Honorable Susan L. Dobrich

NOTICE OF REMOVAL

Defendant CE Power Engineered Services, LLC (“CE Power”) a/k/a CE Power of Cincinnati, OH through its attorneys, Miller, Canfield Paddock & Stone, PLC, gives notice of removal of this action from the Cass County Circuit Court, where it is currently pending, to the United States District Court Western District of Michigan, Southern Division, pursuant to 28 U.S.C. §§1332, 1441 and 1446, and states the following in support of such removal:

1. On January 19, 2021, Plaintiff, Gregory Nelson (“Nelson”), filed a lawsuit in the Cass County Circuit Court against Defendants entitled *Nelson v. CE Power of Cincinnati, OH, et. al*, Case No. 21-000020-CD (Honorable Susan L. Dobrich, presiding) (the “State Court Action”). Pursuant to 28 U.S.C. §1446(a), copies of all process, pleadings and orders served upon Defendants in the State Court Action are included with this Notice of Removal as **Exhibit A**.

2. Nelson has not yet filed a proof of service with Cass County Circuit Court, however CE Power received a copy of the Summons and Complaint on or around March 11, 2021.

3. Removal of this action is timely as CE Power has filed this Notice of Removal within thirty (30) days of the date on which CE Power received a copy of the Summons and Complaint. *See* 28 U.S.C. §1446.

4. This is an action between citizens of different states and complete diversity of citizenship exists between the parties as follows:

- a. Nelson is an individual and a citizen of the State of Illinois.
- b. CE Power is a Delaware limited liability company. CE Power is owned by various members. Mason Wells Buyout Fund III, LP, which owns 65% of CE Power, is a citizen of Wisconsin because its partners are located in Wisconsin. *See Grupo Dataflux v. Atlas Glob. Grp., L.P.*, 541 U.S. 567, 569, 124 S. Ct. 1920, 1923, 158 L. Ed. 2d 866 (2004) (limited partnerships are citizens of each State or foreign country of which any of its partners is a citizen). William McCloy, who owns 19% of CE Power, is an individual and a citizen of Cincinnati, Ohio. The remaining membership shares of CE Power are owned by various individuals, none of whom reside in the state of Illinois. Therefore, for the purposes of diversity jurisdiction, CE Power is a citizen of Wisconsin and Ohio, but it is not a citizen of Illinois. *See Americold Realty Trust v. ConAgra Foods, Inc.*, 136 S. Ct. 1012, 1016-17 (2016) (unincorporated entities, such as limited liability companies, are citizens of all states where each of their members or partners is a citizen).
- c. Defendant American Electric Power is a New York corporation and its principal place of business is located in Ohio. Defendant American Electric Power is not incorporated in the state of Illinois. Therefore, for the purposes of diversity jurisdiction, American Electric Power is a citizen of New York and Ohio because citizenship of a corporation is determined by its state(s) of incorporation or the state where its principal place of business is located. *See* 28 U.S.C. § 1332.
- c. In this employment discrimination action, the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. The face of the Complaint pleads a request for the recovery of compensatory damages, exemplary damages, and lost wages and the value of fringe benefits, attorneys' fees. A defendant is permitted to demonstrate, through a fair reading of the complaint, that the unspecified damages sought will exceed \$75,000.00, if proven. *See Hayes v. Equitable Energy Resources Co.*, 266 F.3d 560, 573 (6th Cir. 2001).

5. Therefore, the United States District Court Western District of Michigan has original jurisdiction over this matter pursuant to 28 U.S.C. §1332(a).

6. Cass County is situated in the Southern Division of the United States District Court Western District of Michigan.

7. Thus, pursuant to 28 U.S.C. §1441(a), this Court is the appropriate forum to entertain this Notice of Removal.

8. Concurrent with the filing of this Notice of Removal, Defendant CE Power is providing notice to Nelson, through his counsel of record, and the Clerk of the Cass County Circuit Court, pursuant to 28 U.S.C. §1446. *See* **Exhibit B**.

WHEREFORE, Defendant CE Power files its Notice of Removal, removing the State Court Action from the Cass County Circuit Court to the United States District Court Western District of Michigan Southern Division.

Respectfully submitted,

/s/ Richard W. Warren (P63123)

Dated: March 31, 2021

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